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1 — EPA Removes Texas from Requirements of Cross-State Air Pollution Rule, KUT, 11/15/2016

<http://kwbu.org/post/epa-removes-texas-requirements-cross-state-air-pollution-rule>

After years of legal battles, the Environmental Protection Agency has started the process of removing Texas from a list of states that need to comply with requirements of one of its air pollution rules.

2 — EPA to hold public meetings about Superfund work in S.W. Colorado, Cortez (CO) Journal, 11/14/2016

<http://www.cortezjournal.com/article/20161113/News05/161119958/0/FRONTPAGE/EPA-to-hold-public-meetings-about-Superfund-work-in-SW-Colorado>

The Environmental Protection Agency will hold community meetings this week in Durango, Shiprock and Silverton to provide an update on the Bonita Peaking Mining District Superfund site.

3 — \$245 million from BP added to Louisiana river diversion projects, New Orleans Times-Picayune, 11/15/2016

http://www.nola.com/environment/index.ssf/2016/11/245_million_in_bp_spill_money.html#incart_river_index

Louisiana will receive more than \$245 million in BP oil disaster money to advance work on two sediment diversion projects along the Mississippi River and a third project to move more freshwater from the Atchafalaya River Basin into Terrebonne Basin wetlands, officials with the National Fish and Wildlife Foundation and the state announced Tuesday.

4 — Houston Fire Department: Cause of massive Spring Branch warehouse fire undetermined, Houston Chronicle, 11/15/2016

<http://www.houstonchronicle.com/news/houston-texas/houston/article/Houston-Fire-Department-Cause-of-massive-Spring-10616967.php>

It's unclear what started a fire that destroyed a chemical warehouse in Spring Branch, prompting explosions, fumes and deadly runoff, the Houston fire chief said.

5 — New oil and gas drilling regulations could be on the chopping block in a Trump White House, Dallas Morning News, 11/15/2016

<http://www.dallasnews.com/news/environment/2016/11/15/new-oil-gas-drilling-regulations-chopping-block-trump-white-house>

The Interior Department announced a new rule Tuesday to reduce methane emissions related to oil and gas drilling on federal land, even though it could face the chopping block next year in a Trump White House.

6 — John Kerry's Antarctica Visit Highlights a Continent, and Climate Policies, Under Threat, The New York Times, 11/15/2016

http://www.nytimes.com/2016/11/16/science/antarctica-john-kerry-global-warming.html?_r=0

A group of hikers in red parkas approached a half-dozen seals resting on floating sea ice. The leader of the entourage — Secretary of State John Kerry — raised his arms and ordered everyone to halt. As an ethereal silence descended, Mr. Kerry cocked his head in the stillness of one of the world's last truly wild places.

7 — It may be too late for Trump to stall climate change action, Christian Science Monitor, 11/15/2016

<http://www.csmonitor.com/Environment/2016/1115/It-may-be-too-late-for-Trump-to-stall-climate-change-action-video>

The way many scientists and activists see it, Donald Trump is no friend of the environment. On the campaign trail, Mr. Trump questioned the scientific community's consensus on climate change. But even if Trump backpedals at the federal level, climate change action may already have enough momentum to continue without him.

8 — Climate could cost \$112B a year by late century — OMB, E&E News, 11/15/2016

<http://www.eenews.net/eenewspm/2016/11/15/stories/1060045791>

The Obama administration said today that climate change could cost the federal government up to \$112 billion per year by the later part of the century, equivalent to about \$28 billion per year in today's economy.

9 — Report: Time running out to put climate policy in place, Climatewire, 11/15/2016

<http://www.eenews.net/climatewire/2016/11/15/stories/1060045748>

There is still time — though not much — to avoid unmanageable climate change, a new report by a panel of science, economics and security experts has found.

10 — Bush-era officials on Trump's EPA shortlist, The Hill, 11/15/2016

<http://thehill.com/policy/energy-environment/306180-bush-era-officials-on-trumps-epa-shortlist>

Two energy lobbyists who worked in former President George W. Bush's Environmental Protection Agency (EPA) are reportedly among the leading contenders to head the agency under President-elect Donald Trump.

11 — Natural gas demand will outpace other fossil fuels, IEA says, NPR StateImpact, 11/16/2016

<https://stateimpact.npr.org/pennsylvania/2016/11/16/natural-gas-demand-will-outpace-other-fossil-fuels-iea-says/>

Demand for natural gas will grow faster than for coal or oil over the next quarter-century, whether or not the world meets carbon-reduction targets set in last year's Paris agreement on climate change, the International Energy Agency said Wednesday.

12 — Cherokee chief visits Dakota Access Pipeline area, expresses hope with Corps of Engineers deliberations, Tulsa World, 11/16/2016

http://www.tulsaworld.com/news/state/cherokee-chief-visits-dakota-access-pipeline-area-expresses-hope-with/article_5945f5a5-e8b0-5b09-96de-67041f79487d.html

Galena Park has been on the Texas Commission of Environmental Quality Air Pollutant Watch List since 2000 to track the level of benzene in the air of the community, which abuts the Houston Ship Channel and thus the beating, belching petrochemical center of the United States. For more than a decade, TCEQ has measured the ambient concentrations of benzene, a known carcinogen that has been tied to cancer and birth defects such as spina bifida. The agency even ramped up its data collection in 2008 and has since then watched the ambient benzene concentration levels decline.

13 — Human Carcinogens, Antimicrobial Pesticides, Cross-State Air Pollution: Federal Law Updates for Chemical Law and Science, National Law Review, 11/16/16

<http://www.natlawreview.com/article/human-carcinogens-antimicrobial-pesticides-cross-state-air-pollution-federal-law>

On October 21, 2016, the U.S. Environmental Protection Agency (EPA) announced that it has reopened the comment period on a proposed Significant New Use Rule (SNUR) under the Toxic Substances Control Act (TSCA) as requested by a commenter. 81 Fed. Reg. 72759.

14 — Fisheries secretary orders internal review after audit finds questionable spending of oil spill money, Baton Rouge Advocate, 11/14/16

http://www.theadvocate.com/baton_rouge/news/article_e2608920-aa6c-11e6-8cbc-4b5b065b1df4.html?sr_source=lift_amplify

Louisiana's wildlife and fisheries secretary says he's ordered a "complete internal review" of his agency's operations. The move comes after auditors found questionable spending, missing state-owned property and shoddy management of finances in the past leadership of the department.

15 — County backs Witte Museum river habitat project, San Antonio Express-News, 11/15/16

<http://www.expressnews.com/news/local/article/County-backs-Witte-Museum-river-habitat-project-10616773.php>

Bexar County has agreed to pitch in \$2.25 million for the Witte Museum's \$8.2 million project to create riparian habitat along the upper reaches of the San Antonio River, where an 18th-century diversion dam and acequia will be brought back to life behind the museum.

16 — Sewer project hopes to reduce odor issue, Albuquerque Journal, 11/16/16

<https://www.abqjournal.com/889912/sewer-project-hopes-to-reduce-odor-issue.html>

Work began this week on a solution to a situation that has been a pain in the nose for some West Side residents and business owners for four decades. And it's expected to cause its fair share of disruptions to homes and businesses before it's done next September.

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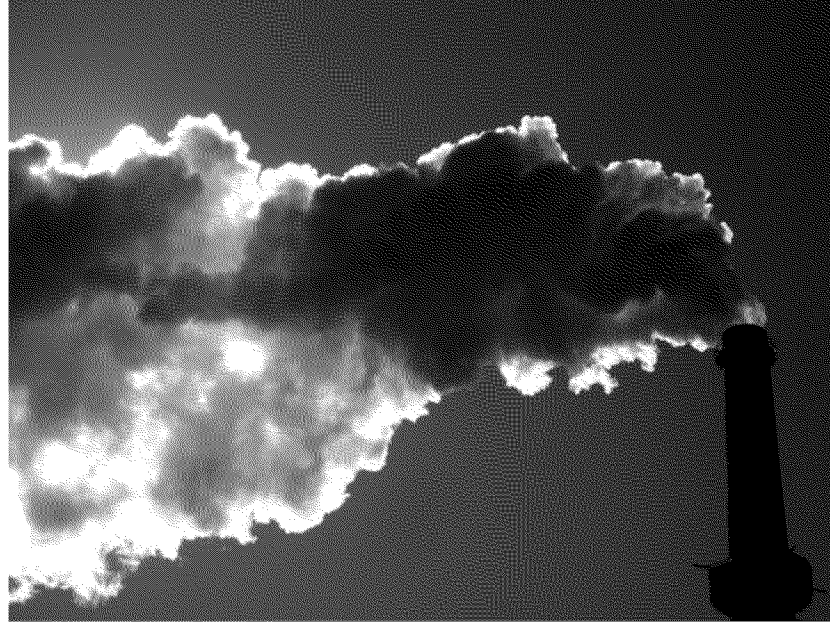
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Originally published on November 15, 2016 8:44 am



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After years of legal battles, the Environmental Protection Agency has started the process of removing Texas from a list of states that need to comply with requirements of one of its air pollution rules.

The regulation, known as the Cross-State Air Pollution Rule, was aimed at reducing toxic emissions from mainly coal-fired power plants that can drift into other states. The idea was that, if you have a power plant in your state that causes pollution in other states, you had to clean up the emissions from that plant.

“EPA had decided that Texas was causing two types of problems. It’s was causing too much ozone smog in other states and it was causing too much fine particles,” explained Daniel Cohan, a professor of environmental engineering at Rice University.

But retrofitting a coal plant to “scrub” emissions and comply with the rule is a costly undertaking, and could have sped up the closure of some coal plants. Texas joined a lawsuit to fight the rule and, after a prolonged legal battle that included one visit to the Supreme Court, a lower court overturned the EPA on one part of the rule.

“The courts didn’t trust EPA’s finding that Texas was actually contributing to particles in other states,” Cohan said.

Now, the EPA has announced it will remove Texas from a list of states that need to cap that particulate pollution, the ozone rules still stand. Cohan, sees the decision as a “pragmatic,” one that allows the agency to move forward in implementing the rest of the regulation. But, it was met with disappointment from some public health advocates.

“The fact is that air pollution from power plants – it kills people. So, any rule that we can get to reduce air pollution from power plants, we think, is an important step forward,” said Adrian Shelley, executive director of Air Alliance Houston.

The full impact of removing Texas from the rule is still unknown, but could be minimal. For one thing, there is a second EPA rule, called the Regional Haze Rule, that may overlap with the cross-state rule to limit some pollution.

“There are still many power plants in Texas that are subject to the Regional Haze Rule, and those plants will have to reduce sulfur oxide pollution under that Regional Haze Rule,” Shelley said.

But, the Regional Haze Rule is tied up in the courts, too.

“We’re in this odd position where we have these two major rules that, because they’ve been tied up in courts so long, we’re really waiting to see how they affect Texas power plants,” said Rice’s Cohan. “At the same time, the market

is already making many of these facilities virtually obsolete or unprofitable.”

In fact, the switch from coal to renewables and natural gas in Texas has already reduced particulate pollution in the state to levels below those mandated by the Cross-State Air Pollution Rule. In effect, Texas is in compliance, even though it no longer has to be, says Al Armendariz a former EPA administrator who now works at the Sierra Club.

“I think the Cross-State Air Pollution rule would have been a nice backstop in Texas to prevent any kind of backsliding and prevent emissions from going up,” he said. “At the same time, the practical impact is that we’re seeing Texas is already complying with the requirement.”

It is part of a market trend away from coal that health and environmental advocates hope continues, as the next presidential administration aims to encourage the coal industry and roll back environmental regulations.

“Whatever happens with these EPA rules, there’s a strong likelihood that many of the coal plants will shut down anyway,” said Cohan.

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Article published Nov 13, 2016

EPA to hold public meetings about Superfund work in S.W. Colorado

Meetings in Durango, Shiprock and Silverton



Photo by: Jerry McBride/Durango Herald file

The Gold King Mine, left, and the Environmental Protection Agency's treatment ponds and facility as seen from a June EcoFlight near Silverton.

Herald staff report

The Environmental Protection Agency will hold community meetings this week in Durango, Shiprock and Silverton to provide an update on the [Bonita Peaking Mining District](#) Superfund site.

An announcement by the EPA says a “recap of activities undertaken at the BPMD over the last year will be provided along with an opportunity to talk one-on-one about work being done at the site.”

In its November update, the EPA provided a list of completed activities, which include minor work at the Brooklyn Mine, installing two meteorological stations, a precipitation gauge and a full weather station around the Superfund site.

The EPA and Bureau of Land Management also installed four groundwater wells at the Kittimack tailings between Howardsville and Eureka to establish the depth of the water table and define groundwater flows.

The EPA announced it has completed its site reconnaissance at each source area included in the Bonita Peak Mining District, and will use that information to draft a plan for cleanup. The mining district

near Silverton includes 48 sites targeted for cleanup under Superfund work, which it will prioritize with information gathered this year

The Superfund designation came a little more than a year after EPA contract workers breached the Gold King Mine, releasing three million gallons of toxic mine wastewater into Cement Creek, a tributary of the Animas River. The spill led area communities and the state to seek Superfund status to get federal assistance in cleaning up mining sites.

The EPA also awarded a \$100,000 Environmental Education Grant to Mountain Studies Institute

“With the funding, MSI proposes to collaborate with the EPA to build awareness and understanding of the Animas River Watershed for residents, recreationalists and visitors,” the announcement said.

\$245 million from BP added to Louisiana river diversion projects



By Mark Schleifstein, NOLA.com | The Times-Picayune

[Email the author](#) | [Follow on Twitter](#)

on November 15, 2016 at 12:04 PM, updated November 15, 2016 at 3:44 PM

Louisiana will receive more than \$245 million in BP oil disaster money to advance work on two sediment diversion projects along the Mississippi River and a third project to move more freshwater from the Atchafalaya River Basin into Terrebonne Basin wetlands, officials with the National Fish and Wildlife Foundation and the state announced Tuesday (Nov. 15). Foundation officials also announced the awarding of another \$120 million for 19 projects in Alabama, Florida, Mississippi and Texas.

Part of the money also will go to two projects that will help coordinate designs of the diversion projects, and to underwrite monitoring that will be used to adjust designs and operations of the projects to future environmental challenges — including sea level rise caused by global warming.

The grant money comes from the foundation's Gulf Environmental Benefit Fund, which received \$2.5 billion from settlements with the U.S. Justice Department of criminal charges against BP and Transocean for their actions leading to the BP oil disaster in 2010. Transocean owned the Deepwater Horizon rig that exploded while drilling a well for BP. Half of the settlement money, \$1.27 billion, was reserved for Louisiana projects to restore coastal barrier islands and to help design and build sediment diversion projects.



National Fish and Wildlife Foundation fund is launched to restore Louisiana, Gulf Coast natural resources

Tanner Johnson, a director of the foundation's fund, said the foundation has worked closely with Louisiana officials and a variety of federal agencies in funding the projects. Under the terms of the settlement agreement, the foundation must consult with state resource agencies and officials with the U.S. Fish & Wildlife Service and the National Oceanic and Atmospheric Administration.

Officials also are coordinating with the Army Corps of Engineers, which oversees the issuance of federal Clean Water Act permits that are required for all of the projects. Mark Wingate, the senior civilian official in the corps' New Orleans District office, said the corps just completed a two-day workshop on the permitting process with officials representing Louisiana; the National Fish and Wildlife Foundation; the federal Restore Act's Gulf Coast Ecosystem Restoration Council, which oversees projects funded by other BP spill fine money; and other federal agencies.



The \$50 billion plan to save Louisiana's coast gets a rewrite

"The awards we announce today include significant investments to advance sediment diversions along the lower Mississippi River that will eventually protect and restore thousands of acres of wetlands in Louisiana," said Jeff Trandahl, executive director and chief executive of the foundation. "In addition, the new projects will protect critical coastal habitat, while bolstering populations of Gulf Coast birds, sea turtles, marine mammals and other fish and wildlife species that were injured as a result of the spill."

Said Gov. John Bel Edwards: "I strongly believe that Louisiana received this money not only because of the devastation to our wetlands, but also because of the coordinated efforts in place to restore our coast, as evidenced by our coastal master plan. This latest funding award, \$245 million, is a milestone in advancing implementation of the biggest projects within the Louisiana Coastal Master Plan and another victory for rehabilitating Louisiana's most valuable asset, our coast."

"This award gives Louisiana a significant push forward in the implementation of both our barrier island restoration program and our sediment diversion program, in addition to building out a critical and robust adaptive management program for each," said Johnny Bradberry, chairman of the state Coastal Protection and Restoration Authority. "Just this month, with our last award from NFWF, we were able to complete pumping over 5 million cubic yards of sediment, our biggest restoration project to date, for 13 miles of Caminada headland beach and dune restoration."

The Louisiana share of the money will be divided among five projects that are part of the state's coastal master plan and have been under way for several years:

- \$102.3 million for the second phase of engineering and design of the Mid-Baratavia Sediment Diversion, planned to be built near Myrtle Grove on the West Bank of the Mississippi in Plaquemines Parish. This latest grant will provide enough money to complete planning for the project, which will allow as much as 75,000 cubic feet per second of water and sediment into the Barataria Basin. Officials say it will add 150 million tons of new sediment over its first 50 years of operation.
- \$90.7 million to start engineering and designing the Mid-Breton Sediment Diversion project near White Ditch on the east bank of the Mississippi River in Plaquemines Parish. This diversion is being designed to move up to 35,000 cubic feet per second of sediment and water into Breton Sound, resulting in as much as 70 million tons of new sediment over its first 50 years of operation.
- \$16.1 million for the Mississippi River Mid-Basin Sediment Diversion Program Management program, which will help support the engineering and design of the two Mississippi diversions.
- \$16.3 million to begin design and environmental regulatory review for the Increase Atchafalaya Flow to Terrebonne project. The plan is to find ways to divert part of the Atchafalaya River's flow, including freshwater and sediment, into areas where it can help sustain and maintain wetlands in the Terrebonne Basin. When complete, the hope is for the project to reduce wetland loss by about 13,000 acres over its first 50 years.
- \$19.6 million for an adaptive management program for all of the river diversion and barrier island programs financed by the National Fish and Wildlife Foundation. This program includes money for the federal-state Coastal Reference Monitoring System, which is providing information on habitat changes, salinity changes and relative sea level rise, and other natural resource monitoring programs. The information will be used to make changes in the projects as they move through design and construction and begin operations.

When completed, the Louisiana projects will include the restoration of 7 1/2 miles of barrier island and beach/dune habitat. The money set aside for diversions will not be enough to complete their construction.

State officials have estimated that the Mid-Barataria diversion will eventually cost \$1.3 billion, including contingencies and inflation. They say the Mid-Breton project will cost \$696 million.

The projects funded Tuesday in other Gulf Coast states also are aimed at ecological restoration, under the terms of the criminal settlement.

"Our nation's Gulf Coast encompasses some of the most unique and irreplaceable wildlife habitat in the world – 33 major river systems and more than 200 estuaries culminate here, providing food and shelter for hundreds of native species of birds, fish and other wildlife and plants," said Fish and Wildlife Service Director Dan Ashe. "The Gulf Environmental Benefit Fund plays a crucial role in helping the service and its partners address the impacts of the Deepwater Horizon oil spill and restore the health of the Gulf for the wildlife and people who share this incredible place."

Under the terms of the settlement, Alabama, Florida and Mississippi each receive \$356 million for natural resource habitat projects. Texas will receive \$203 million, with all the money distributed by 2018, five years after the settlement agreement was approved. The other awards announced Tuesday include:

- [Alabama](#) – More than \$63 million for six projects, including acquiring and restoring coastal habitats and continued monitoring of fisheries.
- [Florida](#) – \$32 million to four projects that continue fisheries monitoring, expand shorebird restoration activities, enhance sea turtle standing response capacity and restore oyster reefs in the Big Bend area.
- [Mississippi](#) – More than \$16.2 million for two projects, including expansion of a coastal bird stewardship and monitoring program, and advancement of marine mammal and sea turtle conservation.
- [Texas](#) – About \$12 million for seven projects, including acquisition of coastal habitat, protection of critical shoreline, enhancement of bird rookery habitats and hydrologic restoration of coastal wetland habitat.

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Houston Fire Department: Cause of massive Spring Branch warehouse fire undetermined

HFD chief says scant evidence cannot pinpoint source of Spring Branch blaze

By Mark Collette and Matt Dempsey

November 15, 2016 Updated: November 15, 2016 10:03pm

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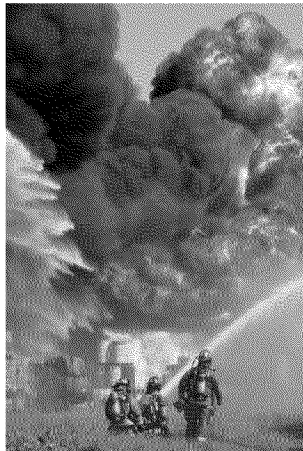


Photo: Photo Courtesy Of Houston Fire Department

IMAGE 1 OF 4

Members of the Houston Fire Department. battle a four alarm fire at the Custom Packaging and Filling Company in the 1700 block of Laverne near Spring Branch Drive in Spring Branch, according to the Houston Fire ... more

It's unclear what started a fire that destroyed a chemical warehouse in Spring Branch, prompting explosions, fumes and deadly runoff, the Houston fire chief said.

The May blaze underscored a Houston Chronicle investigation that found hazardous chemical stockpiles peppered across the city near homes and schools

are poorly understood, even by the government officials tasked with protecting the public.

The fire began in a garage at a home on Laverne Street, adjacent to the warehouse, but it didn't leave enough evidence for investigators to pinpoint the cause, Interim Chief Rodney West said. The homeowner worked on cars in the garage.

Custom Packaging & Filling had more than 40,000 pounds of hazardous chemicals on site when it burned down, West told a City Council committee this week.

"I grew up on the street of the explosion," council member Brenda Stardig said. "I drove by it all the time. I never suspected it had that amount of chemicals."

Stardig's homeland security committee is overseeing the fire department's response to the Chronicle investigation, including

efforts to survey thousands of businesses with chemicals on site, increase inspections and enforcement, and offer ordinances that could give the city more authority to police hazardous materials.

Chemicals show up everywhere from beauty salons to manufacturing plants. But it's places like the Spring Branch warehouse that worry the committee, because they have large stockpiles and aren't obvious to the public.

The Texas Commission on Environmental Quality said the warehouse failed to file a chemical inventory, required under federal law, that could have alerted the fire department to the materials on site before it arrived. The commission proposed a penalty of \$5,000. Custom Packaging & Filling has denied it broke the law.

The warehouse also was out of compliance with city hazmat rules, West said. It should have lowered its inventory, he said.

Warehouse owner Traci Willis has said city officials never informed her of the required change. Records show she paid for and received annual permits at least seven times since the last fire inspection in 2008.

Chemical fires are particularly challenging for firefighters, who must decide whether to use water or foam so as not to make the situation worse.

Even if the Houston department had known about the amount or type of chemicals at Custom Packaging & Filling, firefighters may not have responded differently, West said.

They couldn't let the structure burn because of the proximity to homes and schools, he said.

Foam and water exacerbated the runoff of fuel additives and pesticides from ruptured containers into a nearby creek, where it killed wildlife.

The city may bill the company for cleanup costs, but it could be complicated. Custom Packaging & Filling already disputed an attempt by the Coast Guard to recoup the costs of its spill response team. The company went out of business. A spokeswoman for Mayor Sylvester Turner's office didn't immediately respond to a request for details about the cleanup costs.

ENVIRONMENT 15 HRS AGO

New oil and gas drilling regulations could be on the chopping block in a Trump White House

Jeff Mosier Environmental Writer

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The Interior Department announced a new rule ~~on~~ Tuesday to reduce methane emissions related to oil and gas drilling on federal land, even though it could face the chopping block next year in ~~an~~ Trump White House.

The rule — passed in the final months of the Obama administration — deals with venting, flaring and leaks. An Interior Department statement described it as a "good government ~~for~~" since the additional methane emissions are lost federal dollars.

"We are proving that we can cut harmful methane emissions that contribute to climate change, while putting in place standards that make good economic sense for the nation," said Secretary of the Interior Sally Jewell in the statement. "Not only will we save more natural gas to power our nation, but we will modernize decades-old standards to keep pace with industry and to ensure a fair return to the American taxpayers for use of a valuable resource that belongs to all of us."

Federal officials project the rule will cut methane emissions by as much as 35 percent. Overall, the administration's goal is a reduction of 40 percent to 45 percent by 2025.

But Republican officials and news outlets noted that the new rule could be wiped out almost immediately by the new administration of Donald Trump.

The political news site The Hill explained that the "rule will fall within the 60-day window in which Congress can issue a resolution disapproving of it. If lawmakers do so, Trump's signature would stop the rule in its tracks."

The story pointed to a quote from a member of the GOP Senate leadership as evidence the rule won't last.

"The Republican majority in Congress will not let this rule stand," said Sen. John Barrasso of Wyoming. "We will work with President-elect Trump to revoke this rule either administratively or through the use of the Congressional Review Act."

Gas flaring is one type of emission that a new federal rule seeks to reduce. (U.S. Interior Department)

In a written statement to *The Washington Post*, Sen. Jim Inhofe, R-Okla., called the new rule a "purely political move by the Obama administration" and a "last ditch effort to save the president's crumbling climate legacy."

Methane has received a great deal of scrutiny because of its role in climate change. It has a much shorter life span than carbon dioxide but is dozens of times more potent.

That's not a concern for Inhofe, who wrote a book titled *The Greatest Hoax: How the Global Warming Conspiracy Threatens Your Future*. He brought a snowball to the floor of the Senate as part of his argument dismissing the existence of man-made climate change.

Inhofe said Tuesday that Congress has "many tools with which to rescind this rule."

Trump is expected to push for an expansion of oil and gas drilling on federal land after taking office of

"If the goal is to prevent emissions, not impede U.S. energy production, then the [Bureau of Land Management] should focus on fixing permitting, infrastructure and pipeline delays that slow our nation's ability to capture more natural gas and deliver affordable energy to consumers," Erik Milito, an American Petroleum Institute official, told *The Washington Post*.

There was an effort earlier this year to drill under Lewisville Lake, which is owned by the federal government. A technicality rather than federal reluctance, ended that plan.

Environmental groups praised the new rule.

"The Bureau of Land Management's Methane Waste and Prevention Rule is an important step toward addressing the oil and gas industry's emissions of methane and other harmful pollutants, waste of the public's natural resources, and contribution to climate change," said Adam Kron, senior attorney for the Environmental Integrity Project, in a written statement.

"We will fight to ensure that the rule is fully implemented and enforced over the coming years because climate change is a real threat that knows no political boundaries."

The New York Times | <http://nyti.ms/2eCNYgc>

SCIENCE

John Kerry's Antarctica Visit Highlights a Continent, and Climate Policies, Under Threat

By JUSTIN GILLIS NOV. 15, 2016

SCOTT BASE, Antarctica — A group of hikers in red parkas approached a half-dozen seals resting on floating sea ice. The leader of the entourage — Secretary of State John Kerry — raised his arms and ordered everyone to halt.

As an ethereal silence descended, Mr. Kerry cocked his head in the stillness of one of the world's last truly wild places.

In that moment, the frozen landscape seemed timeless, but it is actually in grave peril, as Mr. Kerry had been told by scientists only minutes before. The ice across large parts of West Antarctica may be starting to disintegrate because of global warming, and if it goes, the world's coastal cities face destruction, too.

The presence of Mr. Kerry, the highest-ranking United States government official ever to visit Antarctica, lifted the morale of scientists working to understand the icebound continent. Yet the visit, at the end of last week, was shadowed by anxiety.

In his nearly four years as secretary of state, Mr. Kerry has hurled himself into conservation issues, making them a central focus of American diplomacy and winning a string of ambitious deals to limit global warming and protect the oceans.

But with last week's election results, the prospect looms that Donald J. Trump will rip up the Obama administration's work — and throw global efforts against climate change into confusion.

Mr. Kerry and the aides traveling with him to Antarctica, many of them young liberal Democrats, were not expecting Mr. Trump to win. The trip began a day before the election, and Mr. Kerry had confidently predicted a Hillary Clinton victory.

He was flying over the South Pacific toward New Zealand the next day when the results began to come in. His aides rushed around the plane, shocked at some of the states Mrs. Clinton was losing.

The results were not definitive until he was in his hotel room that night in Christchurch. In an interview the next evening, and in a series of chats on the trip, Mr. Kerry trod carefully, declining to offer any direct criticism of Mr. Trump.

He and his aides plan to welcome the Trump appointees who will soon run the State Department, hoping to build relationships with them and, possibly, persuade them to keep some of Mr. Kerry's diplomatic deals.

But Mr. Kerry also made clear that when he leaves office Jan. 20, he will rejoin the political struggle over climate change, speaking publicly on the issue and perhaps campaigning against members of Congress who dispute the validity of climate science.

"I'm ready to continue to fight," Mr. Kerry said. "We've made too much progress."

On Wednesday, in Marrakesh, Morocco, Mr. Kerry is expected to urge delegates at a United Nations climate conference to redouble their efforts to limit emissions.

But the world's climate diplomats are intensely worried that under Mr. Trump, the United States will renege on its commitments, potentially leading to a collapse of the global political will to tackle the problem. Mr. Kerry can make no promises that will bind the Trump administration.

After a campaign in which Mr. Trump made little more than broad-brush pronouncements on climate and energy, the details of the president-elect's policies remain largely unknown. But he has described climate science as a hoax perpetrated by the Chinese to undermine the American economy, and his electoral coalition includes climate change denialists who are likely to press him to abandon American commitments on the issue.

Myron Ebell, a libertarian who is Mr. Trump's choice to lead the transition at the Environmental Protection Agency — which the president-elect has vowed to dismantle — has long dismissed concerns about global warming and has called prominent climate scientists “alarmists.” Mr. Ebell has said that the E.P.A.'s Clean Power Plan, one of the Obama administration's signature climate efforts, is illegal.

Mr. Kerry's tenure as secretary of state has been the capstone of a career working on environmental protection. In 1970, as a veteran just back from the Vietnam War, he helped organize Massachusetts events for the first Earth Day, a mobilization that sent 20 million people into the streets across the country.

In decades as a senator from Massachusetts, he urged the United States government to tackle global warming, but won only a handful of legislative goals, including tougher efficiency standards for cars.

His State Department tenure, by contrast, has featured diplomatic achievements including a deal in Paris last year to limit emissions from fossil-fuel burning and forest destruction, and separate pacts to reduce certain other greenhouse gases, limit emissions from airplanes and protect enormous swaths of the ocean.

“If global climate change keeps moving at the pace it is, there are going to be climate refugees, there are going to be climate conflicts, there are going to be food conflicts,” Mr. Kerry said.

In his years as secretary of state, Mr. Kerry turned up at obscure negotiating sessions where he was by far the most senior diplomat in the room. He cajoled the leaders of Russia, China, India and other countries.

He won cooperation from China , helping to spur the Paris deal. The meeting in Marrakesh is supposed to be a major step toward putting it into practice.

As he approached Antarctica on Friday, Mr. Kerry, an experienced pilot, rode in the cockpit of the C-17 Globemaster cargo plane transporting his entourage, one of the regular flights from New Zealand to Antarctica run by the United States Air Force.

In the cockpit, he recounted lobbying President Vladimir V. Putin of Russia to help win protection , just weeks ago, for 600,000 square miles of the Ross Sea, off the Antarctic coast.

As the plane steered toward the American logistics base at McMurdo Station, Mr. Kerry looked down at the stretch of ocean he had helped to preserve.

Over two days, he hiked for hours, listening to scientists explain evidence that the Antarctic landscape is undergoing profound change.

He lingered to discuss a project led by John Stone of the University of Washington, who was at McMurdo Station preparing for a journey to haul drilling apparatus into the frozen wilderness.

“What’s been observed in the West Antarctic ice sheet that’s so alarming now?” Mr. Kerry asked.

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Dr. Stone showed him maps of glaciers that are being weakened by warmer ocean water, possibly indicating an incipient destabilization of the ice sheet, which scientists believe is vulnerable to collapse in a slightly warmer climate.

Dr. Stone plans to drill through the ice into rock to establish the last time much of West Antarctica melted, a potential clue to the amount of global warming it will take to cause another collapse, which could raise the global sea level by 10 or 15 feet.

“We know that sea level has been higher in the past,” Dr. Stone said as they gazed at the maps. “But sea level doesn’t tell you where the ice sheets were melting and what melted, and it doesn’t so easily tell you how fast it all happened.”

Mr. Kerry was also fascinated by Antarctic wildlife. On his first day, flying by helicopter to see the spectacular geology of an ice-free region called the McMurdo Dry Valleys, his group was accosted by a lone Adélie penguin. The secretary of state whipped out his phone and filmed the creature.

“Come on, walk up here, buddy!” Mr. Kerry said. The penguin hesitated, then did exactly that.

Lumbering Weddell seals — lolling about on the sea ice near Scott Base, the New Zealand government’s research facility — showed less interest. They barely lifted their heads to sniff the air as Mr. Kerry’s group approached.

Flying back to New Zealand, Mr. Kerry seemed invigorated. The task now for people worried about climate change is to create a widespread movement that politicians cannot ignore, he said. While the first Earth Day is remembered for those millions of marchers, he noted that many legislative victories did not come until the newly energized environmental movement targeted recalcitrant senators for defeat in the 1972 election.

“It was the losing of seats that moved people,” Mr. Kerry said. “You have to translate it into political fear.”

The CHRISTIAN SCIENCE MONITOR

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It may be too late for Trump to stall climate change action (+video)

Even if Trump backpedals at the federal level, mitigation and adaptation efforts may already have enough momentum to continue without him.

By Joseph Dussault | NOVEMBER 15, 2016

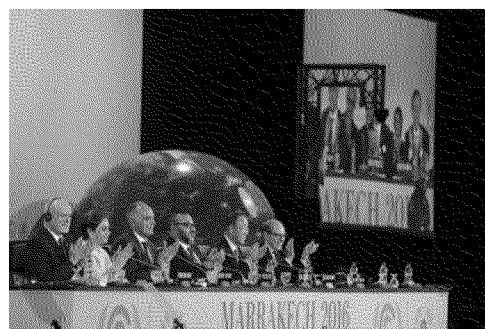
The way many scientists and activists see it, Donald Trump is no friend of the environment. On the campaign trail, Mr. Trump questioned the scientific community's consensus on climate change. He promised to restore a withering coal industry, lift federal restrictions on fracking and offshore drilling, and pull out of the Paris climate agreement. When he won, he tapped a staunch climate change denier to be the head of his EPA transition team.

But even if Trump backpedals at the federal level, climate change action may already have enough momentum to continue without him. Coastal communities, irrespective of party loyalty, are already preparing for rising sea-levels. China, the only country that emits more carbon dioxide than the United States, is gearing up to lead the world in mitigation – a move that could boost the country's global influence. Meanwhile, solar and other renewable energies are cheaper than ever. Even market forces seem to be saying that this isn't up for debate anymore.

As it turns out, Trump's promises of American exceptionalism and prosperity may actually necessitate climate change action.

Generally speaking, Trump has three ways out of the Paris accord. He could withdraw from the deal officially, but that would take until 2020 to finalize. Alternatively, he could pull out of the UN Framework Convention on Climate Change altogether, which would take only about one year. Finally, he could simply ignore the commitment made by President Obama last year – there are no clear legal repercussions for doing so, although it would put Trump's administration on shaky footing with the United Nations.

In other words, the only thing Trump can do in his first year is ignore the emissions targets.



From left, Peter Thomson, General Assembly president, UN climate chief Patricia Espinosa of Mexico, Morocco's Foreign Minister Salaheddine Mezouar, Morocco's King Mohammed VI, United Nations Secretary-General Ban Ki-moon and Richard Kinley, UNFCCC Deputy Executive Secretary attend the opening session of the high level segment of the UN climate conference in Marrakech, Morocco, Tuesday. (Mosa'ab Elshamy/AP)

Most climate scientists warn that a global boost of just 2 degrees C. would be catastrophic. And since the United States alone contributes nearly a quarter of the world's CO₂ emissions, withdrawal would be a devastating blow. But there are geopolitical reasons, perhaps more persuasive than UN shaming, why Trump might not want to do that.

Over the course of his campaign, Trump rallied against China for what he deemed to be unfair trade practices, and promised to revive America's competitive edge over the country. But climate change has become a mainstream topic in the diplomatic world, and China may now have an opportunity to widen the gap.

"Proactively taking action against climate change will improve China's international image

(<http://www.reuters.com/article/us-climatechange-accord-idUSKBN13A12Z>) and allow it to occupy the moral high ground," Zou Ji, a senior Chinese climate talks negotiator, told Reuters. "China's influence and voice are likely to increase in global climate governance, which will then spill over into other areas of global governance and increase China's global standing, power and leadership."

Other nations, many of which once opposed emissions reductions, have also fallen in line with the UN. So if the US wants to stay competitive on the world stage, Trump may need to make some concessions.

Meanwhile, the clean energy industry is growing critically. Solar prices have dropped significantly in recent years, and US tax incentives for wind and solar are set to continue through the decade. As a businessman, Trump likely understands this. He may choose to direct federal funding toward fossil fuels, but renewables aren't going away.

The Christian Science Monitor's Zack Colman reported

(<http://www.csmonitor.com/Environment/Inhabit/2016/1109/Trump-effect-will-test-global-momentum-on-climate-change>):

“State and regional policies, along with businesses, are also likely to continue chipping away at emissions, says Catherine Abreu, executive director of Climate Action Network Canada. She says that's what happened under former conservative Canadian Prime Minister Stephen Harper, who slow-walked his country's action to curb emissions to help the country's oil sands industry.

For many coastal communities, the issue isn't quite so political. A long-term national policy for mitigation is simply "irrelevant" to them, some experts say, because they've already experienced prolonged drought and rising sea levels.

"Coastal communities in New England are already trying to figure out how to engage with people in their towns about addressing climate risks," Lawrence Susskind, a professor of urban planning at MIT, tells the Monitor in a phone interview. "It's no longer just about mitigation, it's about adaptation. And when there's a risk, you have to take adaptation measures."

Mr. Susskind previously authored a book titled “Managing Climate Risks in Coastal Communities.” In light of climate risks, communities all over the world are adopting new policies with regards to evacuation, first responder deployment, and emergency response plans. They’re stocking up on food and water, identifying at-risk citizens, and rethinking the way their houses are built.

“It doesn’t matter what the federal government does,” Susskind says. “You have coastal communities all over the world wondering, ‘What are we going to do?’ There’s almost no discussion of adaptation at the international level.”

But it’s not all doomsday preparation – many of these communities have also begun educating citizens about climate risks. These efforts, which are perhaps among the most important and underrepresented, will likely continue with or without Trump’s support.

“You have communities looking at major invest in infrastructure,” Susskind says. “All of these are questions now, not 50 or 100 years in advance.”

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Climate could cost \$12B a year by late century — OMB

Hannah Hess, E&E News reporter

Published: Tuesday, November 15, 2016

The Obama administration said today that climate change could cost the federal government up to \$12 billion per year by the later part of the century, equivalent to about \$28 billion per year in today's economy.

Analysts from the White House Office of Management and Budget collaborated with the Council of Economic Advisers to assess what the federal government can quantify with regard to the risks posed by climate change.

They came to two conclusions. First, the current understanding of the fiscal risks is "nascent" and limited in scope. Second, what little evidence is available points to significant costs over the course of the century without ambitious action to reduce greenhouse gases and adapt.

Five programs were analyzed: crop insurance, health care, wildfire suppression, hurricane disaster relief and federal facility flood risk.

Authors note there is a lot of uncertainty that could not be captured in the models. For instance, models on global crop productivity likely underrepresent the potentials for farmers to adapt or technology to advance.

On health care, they estimate federal spending could increase by billions of dollars each year by late century as tens of thousands to hundreds of thousands of Americans suffer from illnesses caused by the negative impact of climate change on air quality. Those include heart attacks, emergency room visits for asthma attacks, and hospital admissions for respiratory and cardiovascular conditions.

The report emphasizes that higher emissions disproportionately affect children, older adults and low-income communities. Well-designed public policies can maximize net benefits for those populations as the nation transitions to a low-carbon economy, it states.

The report also emphasizes that investments in adaptation can significantly cut costs while other actions, like increased development in coastal communities, could make hurricanes more devastating to the economy.

Authors say that "this is only a narrow window into the full fiscal risks of climate change."

OMB's Ali Zaidi, associate director for natural resources, energy and science, called the new analysis "a wake-up call."

Zaidi noted unabated climate change is also projected to reduce annual global economic output by as much 4 percent by 2100 — implying hundreds of billions of dollars in lost annual federal revenue.

"Our best scientists and economists will need to help paint the full picture of the fiscal risks of climate change — including by capturing additional areas of climate risk such as national security, transportation infrastructure and public health impacts like the spread of infectious diseases," Zaidi wrote in a blog post.

[Click here](#) to read the report.

Report: Time running out to put climate policy in place

Scott Waldman, E&E News reporter

Published: Tuesday, November 15, 2016

There is still time — though not much — to avoid unmanageable climate change, a new report by a panel of science, economics and security experts has found.

Leaders must recognize that the time for real action is very short, and that climate policy can transcend party politics because of its dire nature, the study argues. It was compiled by 30 experts from China, Europe, India and the United States and was produced to coincide with U.N. climate talks in Morocco aimed at keeping warming below a 2-degree-Celsius (3.6-degree-Fahrenheit) rise over preindustrial levels.

Of course, any such road map looks different this week than it did last week. Avoiding the 2 C turning point at which scientists say the worst effects of climate change would be impossible to reverse will undoubtedly be more challenging under a Donald Trump presidency, in which he has said he wants to roll back the Paris climate agreement on his first day in office (*ClimateWire*, Nov. 14).

The report lays out a multipoint plan, with policy and economic goals as well as education and societal targets to encourage stronger climate action. It also shows that climate policy will ultimately endure despite political headwinds, said Durwood Zaelke, chairman of the Institute for Governance & Sustainable Development and an author of the report. That's because climate changes will increasingly affect communities around the world, with dire consequences, he said.

"When the yogurt does hit the fan and the leaders are splattered, they're going to be agnostic about climate change; they're going to want solutions. What do we do to try to protect our great civilization?" he said. "So the question, and it's going to be more profound under President-elect Trump, is one of timing."

The report calls for immediately implementing the terms of the Paris accord while also strengthening other climate deals such as the amendment to the Montreal Protocol on ozone-depleting substances to limit hydrofluorocarbons, potent greenhouse gases found in air conditioners and other appliances. It also calls for removal of existing carbon dioxide in the atmosphere and decarbonizing the global economy by 2050.

Uncertainty about a Trump administration

The report was released yesterday, while leaders from across the globe gathered in Morocco to implement the carbon reduction goals worked on in Paris last year. It also comes as a new U.N. report has found that 2016 is likely to be the hottest year ever since record-keeping began in the 19th century. The planet has warmed 2.2 F since

preindustrial times, and 16 of the warmest years have been recorded this century, according to the United Nations.

Meanwhile, sea ice cover in the Arctic is at record lows, researchers have found, a result of global warming that could signal future changes such as sea-level rise and significant shifts in weather.

The United States has been decarbonizing for years, and while the Trump administration may slow that progress, it's not ultimately going to change, said Paul Bledsoe, an energy consultant and contributor to the report who worked under President Clinton. He said that the markets already support some of the key tools to reducing carbon dioxide, including energy efficiency and deployment of clean energy.

"The fundamentals of climate science and global investment are not going to change; I think those are relatively immutable," he said. "What policy experts and scientists have to do is describe the world as it is, not as ideologues want it to be."

However, there is tremendous uncertainty around just how forceful the Trump White House will be on climate issues. The United States is the world's second-largest emitter of carbon, and it will soon be led by a man who has said he believes climate change is a "hoax" and who is already putting in place a team of energy industry lobbyists and climate change skeptics. That means two sections of the report, which focus on market-based solutions to climate change, could soon become the most germane to its success in the policy arena. The report is for creating incentives for businesses and individuals that reduce carbon emissions as well as rebates or renewable energy portfolio standards for sectors of the economy not covered by the market.

The key, for climate scientists concerned with the ripple effects that could happen if the United States pulls out of the Paris Agreement, is to convince those in power to take some effort, Zaelke said. That's why the committee that produced the report is already looking for additional market-based suggestions that could be more palatable to the Trump presidency.

"The science doesn't change with political winds, and the right strategies are the right strategies," he said. "It's your tactics that have to be adjusted."



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BY TIMOTHY CAMA - 11/15/16 05:04 PM EST

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Two energy lobbyists who worked in former President George W. Bush's Environmental Protection Agency (EPA) are reportedly among the leading contenders to head the agency under President-elect Donald Trump.

Jeff Holmstead, a lobbyist at Bracewell LLC and head air regulator under Bush, is on the shortlist along with Mike Catanzaro, a lobbyist at CGCN Group who was deputy associate administrator at the EPA, Reuters reported Tuesday, citing two sources.

Robert Grady, a venture capitalist who worked at the White House Office of Management and Budget under President George H.W. Bush, is also in the running.

"I think they are trying to find a mix of outsiders who want to see big changes made and experienced folks who know how the agency works and can help them make those changes," a former Bush administration official told Reuters.

Trump's EPA administrator will be responsible for the aggressive deregulatory agenda he outlined on the campaign trail.

He has pledged to repeal major regulations, including the EPA's Clean Power Plan, its Waters of the United States rule and big pieces of its climate change agenda.

Myron Ebell, a climate changeskeptic from the Competitive Enterprise Institute, is leading Trump's EPA transition team efforts, but he is unlikely to be nominated to lead the agency, Reuters reported.

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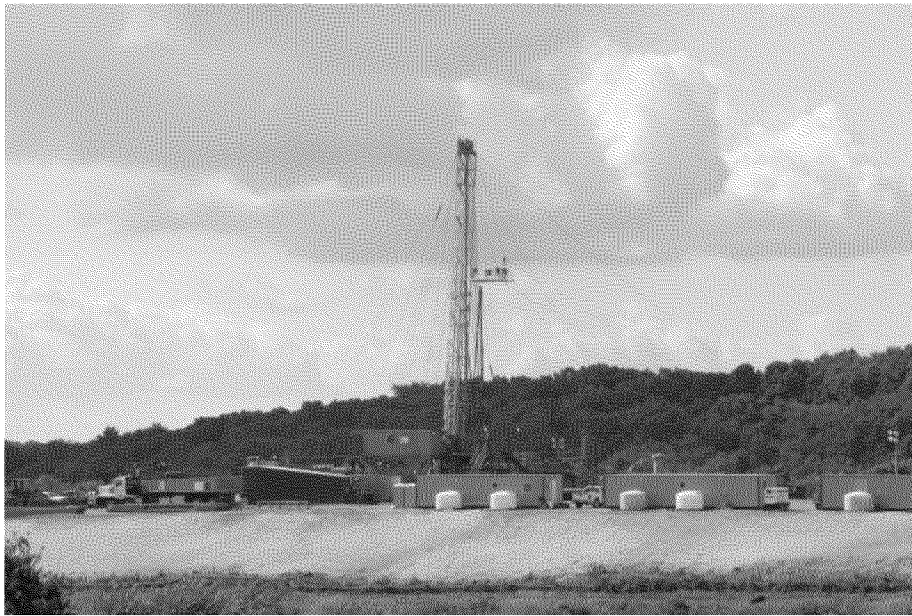


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NOVEMBER 16, 2016 | 3:00 AM

BY JON HURDLE



KEITH SRAKOCIC / AP

Demand for natural gas from wells like this in Zelienople, Pa. will exceed that for other fossil fuels in coming years, the IEA said.

This story has been updated with an additional statement issued by the IEA's Executive Director, Dr. Fatih Birol.

Demand for natural gas will grow faster than for coal or oil over the next quarter-century whether or not the world meets carbon-reduction targets set in last year's Paris agreement on climate change, the International Energy Agency said Wednesday.

The IEA's influential World Energy Outlook did not take into account the election of Donald Trump as U.S. president but presented its forecasts on the basis of three possible scenarios: the new policies that are expected to be implemented following recent agreements; no change in current policies on energy and climate change, and the policies that would be needed to meet the Paris target.

Assuming the expected development of energy sectors in coming decades, gas producers like those in Pennsylvania will see global demand increase by an average 1.5 percent a year between 2014 and 2040, while demand for oil and coal will edge up by only 0.4 percent and 0.2 percent, respectively.

If no new emissions reductions are implemented, natural gas demand would grow by 1.9 percent over the period, exceeding 1.2 percent for coal and 0.9 percent for oil, the annual

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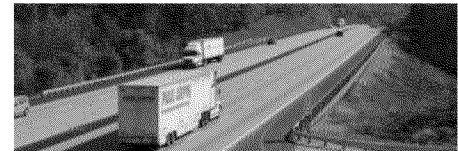
StateImpact Pennsylvania is a collaboration between WITF and WHY? Reporters Marie Cusick and Susan Phillips cover the fiscal and environmental impact of Pennsylvania's booming energy economy, with a focus on Marcellus Shale drilling. Read their reports on this site, and hear them on public radio stations across Pennsylvania. This collaborative project is funded, in part, through grants from the Heinz Endowments and William Penn Foundation.

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A new front emerges in the battle against eminent domain

report said.

And if policy makers implement bigger cuts in carbon emissions under a so-called 450 scenario, which aims to limit the global temperature rise to 2 degree Celsius by 2100, natural gas would be the only one of the three major fossil fuels to see increasing demand according to the projections.

While the projected growth in natural gas demand under the “new policies” scenario is less than the annual 2.3 percent seen over the past 25 years, the fuel will increase its share of primary energy demand from the current 21 percent to 24 percent in 2040, while coal and oil both see declining shares, the 667-page report said.

Higher demand will spur growth in production, two thirds of which will initially come from the United States – where the Marcellus Shale of Pennsylvania and surrounding states is the biggest play – and Australia, the IEA said. But starting in the early 2020s, output is expected to surge in East Africa and the Middle East.

Prices are likely to stay low for some time as “robust” exports of liquefied natural gas, mostly from the U.S. and Australia, will add to the abundant current supply, the report said.

“This ramp-up of supply capacity amidst a general slowdown in demand growth is keeping the global market awash with gas,” it said, but added that LNG overcapacity would be absorbed by the mid-2020s.

Gas accounts for about a third of the projected growth in power generation but it is facing renewed competition from coal as a utility fuel, the IEA said. Even in import-dependent markets like Asia, coal prices would have to be much higher than predicted in 2025 in order for new gas-fired plants to be cost effective.

On the role that natural gas can play in reducing greenhouse gas emissions, the IEA said the fuel emits less carbon than other fossil fuels but leaks methane, a highly potent greenhouse gas, during production and distribution.

Still, it said there’s a “very strong case” for gas as a “relatively clean and flexible source of energy” especially for countries such as the U.S. that have significant resources easily accessible.

Estimates of the size of U.S. gas reserves are uncertain, especially in the Marcellus Shale, the report said, calling the Marcellus “the heart of the uncertainty.”

On international efforts to hit emissions targets set by the Paris accord, most countries have been meeting their requirements but doing so won’t come close to limiting the global temperature rise to 2 degrees Celsius, the report said.

Pledges by the signatories of the Paris agreement would sharply slow the growth of carbon emissions but the overall rate would still be increasing, clearly missing the target of reaching a peak in emissions as soon as possible.

John Quigley former Secretary of Pennsylvania’s Department of Environmental Protection, highlighted a shift toward renewable fuels that the report said will account for 60 percent of all new power generation by 2040.

But the increasing adoption of renewables, coupled with other emissions policies, still are not enough to slow climate change in line with the Paris target, Quigley said.

“There’s clearly an energy shift going on but that is not fast enough to save us from catastrophic warming,” Quigley said, in an interview.

Plans by President-Elect Donald Trump to pull the U.S. out of the Paris accord and scrap the Clean Power Plan may slow the global “energy transformation” but are unlikely to halt it.

Video: Clinton and Trump advisers debate energy and environmental policy

EPA steps up pressure on FERC over new pipeline assessment

Natural gas demand will outpace other fossil fuels, IEA says

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because renewables are becoming increasingly competitive with fossil fuels, said Quigley now a senior fellow with the University of Pennsylvania's Kleinman Center for Energy Policy.

Trump, who has called climate change a hoax, may well follow through on his campaign promises to withdraw from the Paris accord, Quigley said, and that may tempt China, India and Europe to drop their own commitments.

But he predicted that China and India will be compelled to switch eventually to renewable fuels because their existing energy mix, with a large contribution from coal, is creating emissions that are killing thousands of their citizens.


The IEA's Executive Director Dr. Fatih Birol, issued a statement after the report was released, saying that the agency's analysis could be adjusted in light of any changes in U.S. policy resulting from Trump's victory in the presidential election.

"Governments come and go around the world, this is a perfectly normal thing, and energy policies change with changes in administration," the statement said. "We may well see a change in US policy and given the size of the US economy and its importance in the global economy, these changes may have global implications. If there are such changes, we will include them in our forecasts and analysis. But for now it would be premature to speculate on what these policies might be. We will wait for real policies to be announced and put in place."

In Pennsylvania, a large-scale switch toward cleaner-burning natural gas – though not yet renewables – is shown by the number of DEP permit applications for gas-fired power plants whose total capacity would completely replace remaining coal-fired plants, Quigley said.

That process is likely to continue unless the Trump administration subsidizes coal, a move that would conflict with another campaign promise to boost natural gas output, Quigley said.

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Cherokee chief visits Dakota Access Pipeline area, expresses hope with Corps of Engineers deliberations

By Staff and Wire Reports | Posted: Wednesday, November 16, 2016 12:00 am

Cherokee Nation Principal Chief Bill John Baker visited the Dakota Access Pipeline in Standing Rock, North Dakota, this week and said he hoped the Army Corps of Engineers would take tribal voices into account in its deliberations.

“We had an opportunity to visit Standing Rock and the Sacred Stone Camp this week and deliver some critical supplies for the forthcoming harsh winter,” Baker said in a news release.

“The camp’s inhabitants, the water protectors and the tribe remain peaceful, resilient and hopeful for a positive and safe outcome.

“On Monday the U.S. Army Corps of Engineers issued a decision to further deliberate about the Dakota Access Pipeline and include the Standing Rock Sioux’s input. Tribal voices should be considered when decisions impacting safety, health and critical resources are at stake,” Baker said.

“The camp is prepared for a long winter and ready to peacefully protect the water that sustains many communities. I remain hopeful that the Army Corp of Engineers will render a decision that will take into account tribal concerns. We pray that the well-being of the community will be prioritized ahead of profit and corporate interests.”

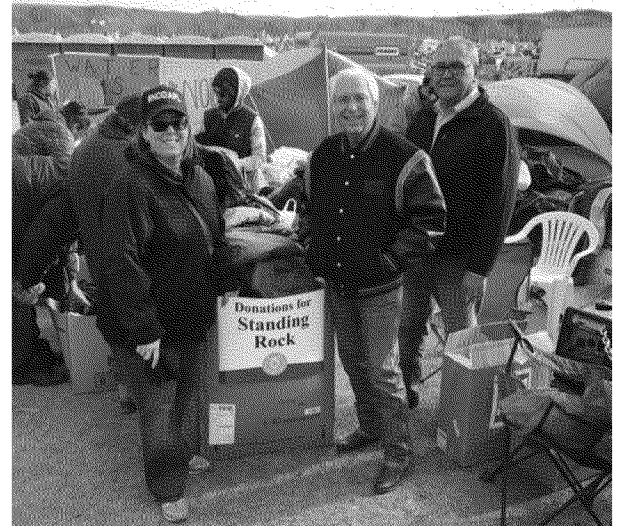
The company building the \$3.8 billion pipeline is seeking a federal court’s permission to lay pipe under a Missouri River reservoir in North Dakota and finish the four-state project.

Dallas-based Energy Transfer Partners and a subsidiary are turning to a judge for help rather than waiting for President-Elect Donald Trump, a pipeline supporter, to take office.

“The declaratory relief Dakota Access Pipeline seeks to end the (Obama) Administration’s political interference in the Dakota Access Pipeline review process,” the company said in a statement Tuesday.

The Army Corps of Engineers did not immediately comment.

The corps on Monday called for more study and input from the Standing Rock Sioux before it decides whether to allow the pipeline to cross under Lake Oahe. The 1,200-mile pipeline that’s to carry North Dakota oil through South Dakota and Iowa to a shipping point in Illinois is largely complete except for that stretch, which will skirt the tribe’s reservation. The tribe says the pipeline threatens drinking water and cultural sites.



Bill John Baker Standing Rock

Cherokee Nation Principal Chief Bill John Baker (center) is pictured at Standing Rock, North Dakota, this week. Courtesy

The corps in July granted Energy Transfer Partners the permits needed for the project, but it said in September that further analysis was warranted, given the tribes' concerns. Its announcement Monday came amid speculation that federal officials were on the brink of approving the crossing. ETP last week began preparing equipment to bore under the river

"Dakota Access has been waiting long enough to complete this pipeline," the company's CEO, Kelcy Warren, said Tuesday.

ETP disputes that the pipeline would endanger the tribe and Warren noted earlier that Army Assistant Secretary Jo-Ellen Darcy had informed company officials and Tribal Chairman Dave Archambault that the corps' previous permit decisions "comported with legal requirements." ETP contends that the corps has no legal justification for the delay. Robert F. Kennedy Jr., who is an environmental attorney and president of the New York-based Waterkeeper Alliance, which seeks to protect watersheds worldwide, was expected to join the tribe's protest on Tuesday. Activists were also calling for demonstrations at Army Corps of Engineers offices and the offices of the banks financing the pipeline construction.

Published on *The National Law Review* (<http://www.natlawreview.com>)

Human Carcinogens, Antimicrobial Pesticides, Cross-State Air Pollution: Federal Law Updates for Chemical Law and Science

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FEDERAL ISSUES

TSCA/FIFRA/IRIS/NTP/TRI

EPA Extends Comment Period On Proposed SNUR: On October 21, 2016, the U.S. Environmental Protection Agency (EPA) announced that it has reopened the comment period on a proposed Significant New Use Rule (SNUR) under the Toxic Substances Control Act (TSCA) as requested by a commenter. 81 Fed. Reg. 72759. The proposed rule would amend the TSCA significant new use regulations to align them with revisions to the Occupational Safety and Health Administration (OSHA) Hazard Communications Standard (HCS), as occasioned by OSHA's March 2012 final rule modifying the HCS to conform to the United Nations' (UN) Globally Harmonized System of Classification and Labelling of Chemicals (GHS), changes to OSHA's Respiratory Protection Standard, and the National Institute for Occupational Safety and Health (NIOSH) respirator certification requirements pertaining to respiratory protection of workers from exposure to chemicals. The proposed rule would also amend regulations for SNURs previously proposed and issued and make a "minor" change to reporting requirements for premanufacture notices (PMN) and other TSCA Section 5 notices.

Our memorandum TSCA Reform: Proposed Changes to SNUR Procedures Will, Perhaps Inadvertently Result in Disclosure of CBI to Third Parties/Possible Competition also brings to light another important legal issue, concerning interesting anomalies that appear in the proposed discussion of *bona fide* requests and the disclosure of information potentially considered confidential. EPA proposes to modify the procedures for determining if a specific substance or chemical use is subject to a SNUR when the substance, production volume, or use is claimed as confidential business information (CBI). The source of EPA's authority to disclose CBI in the ways described in the proposed rule is unclear as neither old nor new TSCA specifies them, such as the statutory basis and rationale for informing *bona fide* intent notice (BFN) submitter of confidential use or production volume conditions. Also, EPA does not justify why disclosure to the BFN submitter is necessary. The current proposed SNUR provides for neither equal disclosure nor equal confidentiality as a result of a BFN submission. Comments are due November 21, 2016.

DHHS Issues 14th Report on Carcinogens: On November 3, 2016, the U.S. Department of Health and Human Services (DHHS) released the 14th Report on Carcinogens (RoC). 81 Fed. Reg. 76621. New listings included in the 14th RoC include six new listings and one revised listing in this edition. The revised listing is for trichloroethylene which was previously listed as reasonably anticipated to be a human carcinogen and is now listed as known to be a human carcinogen. Five of the new listings are in the category of known to be a human carcinogen: Epstein Bar virus, Kaposi sarcoma-associated herpesvirus, human delta lymphotropic virus type 1, human immunodeficiency virus-type 1, and Merkel cell polyomavirus. The new listing in the category of reasonably anticipated to be a human carcinogen is for cobalt and cobalt compounds that release cobalt ions *in vivo*.

EPA Proposes Two Test Methods And Guidance For Evaluating Antimicrobial Pesticides: EPA recently announced for comments the availability of two proposed test methods and associated testing guidance for evaluating antimicrobial pesticides against two biofilm bacteria, *Pseudomonas aeruginosa* and *Staphylococcus aureus*. EPA states that registrants of antimicrobial products with public health claims are “required to submit efficacy data to EPA in support of the product’s registration” under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). EPA is soliciting comments on the clarity of the standard operating procedures and the regulatory guidance. The two test methods are: “Single Tube Method with Splashguard for Evaluating Disinfectant Activity against *Pseudomonas* Biofilm 2015 Method Performance Study”; and “Proposed Procedure: APMLB SOP MB-20: Single Tube Method for Determining the Efficacy of Disinfectants against Bacterial Biofilm.” The draft guidance to assess the efficacy of antimicrobial pesticide products intended to control public health biofilms on hard, non-porous surfaces describes biofilms and their public health significance; the two test procedures for developing efficacy data supporting biofilm claims; products that may be eligible for biofilm claims; test criteria; data submission procedures for efficacy data; and labeling guidance. The draft guidance states that the term biofilm “is reserved for claims against biofilm that are specific bacteria that are directly or indirectly infectious or pathogenic to humans,” and “biofilm claims are considered public health claims for which the agency must review and approve appropriate efficacy data.” EPA states: “Examples of use sites that may be supported by the biofilm test methodologies herein, and found acceptable, include restrooms, shower stalls, sink basins or drains (excluding the drain pipe) and nearby hard, non-porous surfaces of countertops, and instrument trays in patient care areas of hospitals. In contrast, claims against non-public health disinfectants must also be supported by appropriate efficacy data, however submission of the data is only required when requested by the EPA.” Comments will be accepted until January 21, 2017.

EPA Issues Final 2016 NPDES Pesticide General Permit: On November 1, 2016, EPA published its *Final National Pollutant Discharge Elimination System (NPDES) Pesticide General Permit for Point Source Discharges from the Application of Pesticides* in the *Federal Register*, which regulates discharges to waters of the United States from the application of biological pesticides and chemical pesticides that leave a residue. 81 Fed. Reg. 75816. The 2016 NPDES Pesticide General Permit (PGP) replaces the 2011 PGP, which expired on October 31, 2016. The PGP applies to the following geographic areas where EPA serves as the NPDES permitting authority: the States of: Massachusetts, New Hampshire, New Mexico, and Idaho; District of Columbia; all U.S. territories except U.S. Virgin Islands; federal facilities in Delaware, Montana, Colorado, and Washington; discharges in Texas that are not under the authority of the Texas Commission on Environmental Quality, including activities associated with oil and gas exploration (see Appendix A of the Final 2016 PGP for further description); and all areas of Indian Country that are covered by an EPA-approved permitting program (see Appendix A for Indian Country covered within each EPA Region). Similar to the 2011 PGP, the 2016 PGP contains additional permit conditions and modifications that some states and tribes added through the Clean Water Act (CWA) Section 401 certification process and/or the Coastal Zone Management Act process. Part 9 of the 2016 PGP provides a detailed breakdown of any additional requirements. Forty-six states have delegated authority to administer state versions of the PGP. The majority of states recently revised and reissued their respective state PGPs for another five-year permit cycle. The 2016 PGP requirements are nearly identical to those in the 2011 PGP, with the exception of the following two updates included in the 2016 PGP:

Electronic reporting (Part 7.8) -- All reporting under the 2016 PGP (i.e., Notice of Intent (NOI), Annual Report, and Notice of Termination (NOT) submissions) must be submitted via EPA’s NOI system to be consistent with EPA’s Electronic Reporting Rule. EPA will make these reports publicly available through a searchable index tool -- eNOI search. More information on electronic reporting, and access to the Central Data Exchange for NOI, Annual Report, and NOT submissions is available here.

Updated definition of the National Marine Fisheries Service (NMFS) Listed Resources of Concern -- Following consultation between EPA and NMFS, as required under Section 7 of the Endangered Species Act (ESA), EPA expanded the Listed Resources of Concern to include additional species not included in the 2011 PGP definition. Under Part 1.1.2.4, pesticide discharges that overlap with NMFS Listed

Resources of Concern trigger additional NOI requirements to certify that the discharge and discharge-related activities are not likely to adversely affect federally listed “endangered” or “threatened” species, or federally-designated “critical habitat.” Permittees may consult EPA’s PGP NMFS Listed Resources of Concern -- Interactive Mapping Tool to determine whether a discharge activity will overlap with these Resources of Concern. Appendix I provides endangered species instructions for permittees. EPA states in the corresponding Fact Sheet for the 2016 PGP that it continues to estimate that less than two percent of the total number of Operators in the PGP coverage areas will need to meet additional permit requirements to meet ESA-related provisions.

The 2016 PGP permit conditions went into effect on October 31, 2016, and the PGP will expire in five years on October 31, 2021. 2016 PGP coverage is automatic through January 12, 2017, without the submission of an NOI, but pesticide Operators (i.e., pesticide applicators) must comply with all 2016 PGP conditions as of October 31, 2016. For any discharges commencing on or before January 12, 2017, that will continue after this date, a decision-maker must submit an NOI no later than January 2, 2017, to ensure PGP coverage, and for any discharges subsequent to January 12, 2017, an NOI submission is required no later than ten days before the first discharge. Table 1-1 at Part 1.2.3 outlines which decision-makers must submit NOIs based on the particular pesticide use pattern, location (if discharging to a designated Outstanding National Resource Area), and acreage thresholds. Table 1-2 at Part 1.2.3 provides applicable NOI submission deadlines, including grace periods for NOI filing for discharge in response to a Declared Pest Emergency. EPA’s webpage for pesticide NPDES permitting includes links to the final 2016 PGP related fact sheet, the permitting decision tool, and information on eNOI and ESA procedures. Although the 2016 PGP largely mirrors the 2011 version of the permit, it will be important for decision-makers to familiarize themselves with new electronic reporting requirements (Part 7.8). The eNOI system is publicly searchable and could subject PGP permit holders to additional scrutiny by citizens and advocacy groups concerned about potential environmental and public health implications of pesticide applications in their areas. Decision-makers should consult EPA’s NMFS Listed Resources of Concern -- Interactive Mapping Tool and the Alternative PGP Sources of Information for NMFS Listed Resources of Concern to determine where discharges may overlap with these areas and trigger additional permit conditions.

RCRA/CERCLA/CWA/CAA

Final Rule Amends Cross-State Air Pollution Rule: EPA on October 26, 2016, issued a final rule amending its Cross-State Air Pollution Rule (CSAPR) under the Clean Air Act (CAA). 81 Fed. Reg. 74504. The rule amends regulations under 40 C.F.R. Parts 52, 78, and 97 to update the CSAPR to address interstate transportation of ozone with respect to the 2008 National Ambient Air Quality Standard (NAAQS) for ozone. EPA promulgated the original CSAPR on August 8, 2011, to address interstate transport of ozone pollution under the 1997 ozone NAAQS and interstate transport of fine particulate matter (PM_{2.5}) pollution under the 1997 and 2006 PM_{2.5} NAAQS. EPA believes the October 26, 2016, final rule will reduce ozone season emissions of oxides of nitrogen (NO_x) in 22 eastern states that can be transported downwind as NO_x or, after transformation in the atmosphere, as ozone, and can negatively affect air quality and public health in downwind areas. For these 22 eastern states, EPA is issuing Federal Implementation Plans (FIP) that generally provide updated CSAPR NO_x ozone season emission budgets for the electric generating units (EGU) within these states, and that implement these budgets via modifications to the CSAPR NO_x ozone season allowance trading program that was established under the original CSAPR. EPA is issuing these new or revised FIP requirements only for certain states that have failed to submit an approvable State Implementation Plan (SIP) addressing interstate emission transport for the 2008 ozone NAAQS. The FIPs require EGU owners in each covered state to reduce emissions to comply with program requirements beginning with the 2017 ozone season (March through September 30). EPA also intends that these CSAPR revisions address the July 28, 2015, remand by the United States Court of Appeals for the District of Columbia Circuit of certain states’ original CSAPR phase 2 ozone season NO_x emission budgets. The final rule is effective on December 27, 2016.

EPA To Retain Current Lead NAAQS: In a decision published on October 18, 2016, EPA has decided to retain the current NAAQS for lead. 81 Fed. Reg. 71906. The primary and secondary lead standards of 0.15 micrograms per cubic meter lead in total suspended particles as a three-month average thus will remain in place. EPA note, however, the “attendant . . . increasing uncertainty of risk estimates for lower air Pb concentrations,” thus possibly setting the stage for a lowering of the NAAQS when EPA revisits the issue in five years, as required under the CAA. The final rule is effective November 17, 2016.

EPA Releases Three Guidance Documents On Data Use For CERCLA/RCRA Lead Assessments: EPA has quietly released three documents providing guidance on how and whether lead risk assessments under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) should include short-term exposure scenarios, updated variables on blood lead data, and other information and data. The three guidance documents (all dated August 2, 2016) are: “Recommendations for Using Blood Lead Data at Superfund and RCRA Corrective Action Sites (OLEM Directive 9285.6-52)”; “Recommendations for Assessing Short-Term Exposure Scenarios Involving Lead at Superfund Sites (OLEM Directive 9295.6-54)”; and “Guidance for Submittal of Update to the Adult Lead Methodology’s Default Baseline Blood Lead Concentration and Geometric Standard Deviation Parameters (OLEM Directive 9285.6-55).”

The first document transmits recommendations from the Technical Review Workgroup for Metals and Asbestos (TRW) on how or whether to use blood lead data in Superfund lead risk assessments. The second directive transmits the technical document entitled “Recommendations for Assessing Short-Term Exposure Scenarios Involving Lead at Superfund Sites.” It notes that short-term exposures to lead have typically not been considered in assessments involving lead and provides guidance on how to do so. This document cautions that short-term exposure to lead “may pose risk of neurocognitive effects to children.” The guidance also states that EPA is developing an “All-Ages Lead Model” that will allow site assessors to implement one of two alternative models of lead pharmacokinetics to “explore short-term exposure scenarios.” The third directive adjusts EPA default parameters that alter a preliminary remediation goal (PL) for lead. EPA is specifically recommending an increase in the PRG for soil lead concentrations from 2,240 parts per million (ppm) to 2,737 ppm. Taken collectively, this trio of documents represents a significant shift in how EPA assesses risk of lead contamination at CERCLA and Resource Conservation and Recovery Act (RCRA) sites. [The documents are available online.](#)

EPA Issues Final Rule Revising RCRA Hazardous Waste Import/Export Requirements: On October 28, 2016, EPA issued [a pre-publication of a final rule significantly amending the hazardous waste import and export requirements under RCRA](#). EPA states that the rule amends existing regulations to make them more consistent with the current import-export requirements for shipments between members of the Organization for Economic Cooperation and Development (OECD); enable electronic submittal to EPA of all export and import-related documents (e.g., export notices, export annual reports); and enable electronic validation of consent in the Automated Export System (AES) for export shipments subject to RCRA export consent requirements prior to exit. (The AES resides in the U.S. Customs and Border Protection’s Automated Commercial Environment (ACE)). The rule removes and reserves 40 C.F.R. Part 262 Subparts E and F and expands the applicability of a reorganized and clarified 40 C.F.R. Part 262 Subpart H to all hazardous waste transboundary shipments, including those import and export shipments of universal waste managed under 40 C.F.R. Part 273 and specific hazardous wastes (such as spent lead-acid batteries) managed under 40 C.F.R. Part 266. Exporters of hazardous waste shipments, and the transporters carrying such shipments, to Canada, Chile, Mexico, and any non-OECD country will be required to comply with OECD procedures under new or renewed consents issued after the effective date of this action. Importers and receiving facilities of hazardous waste shipments, and the transporters carrying such shipments, from Canada, Chile, Mexico, and any non-OECD country similarly will be required to comply with OECD procedures under new or renewed consents issued to either the foreign exporter or U.S. importer after the effective date of this action. This final rule is effective on December 31, 2016.

EPA Proposes Rule On Internet Posting Of And Confidentiality Determinations For Hazardous Waste Export And Import Documents: On October 28, 2016, EPA issued a pre-publication of a proposed rule that would amend the hazardous waste RCRA international shipment requirements. The proposed revisions would require exporters of hazardous waste and facilities that receive hazardous wastes from foreign sources to maintain a single, publicly-accessible website to which documents can be posted regarding the confirmation of receipt and confirmation of completed recovery or disposal of hazardous waste import and export shipments. EPA is concurrently proposing confidentiality determinations with respect to CBI claims for the individual documents and compiled data for certain types of documents. EPA believes these changes will improve information on the movement and disposition of hazardous wastes. EPA further believes it will enable interested stakeholders to benefit from the provision of publicly-accessible data to monitor proper compliance with the RCRA regulations and help ensure that hazardous waste import and export shipments are properly received and managed. Comments on this proposal will be accepted for 60 days following publication of this rule in the *Federal Register*.

FDA

FDA Issues Proposed Rule On Uses of Ozone-Depleting Substances: On October 26, 2016, the U.S. Food and Drug Administration (FDA) issued a proposed rule to amend its regulation on uses of ozone-depleting substances (ODS), including chlorofluorocarbons (CFC), to remove the designation of certain products as “essential uses” under the CAA. 81 Fed. Reg. 74364. Essential-use products are exempt from the ban by FDA on the use of CFCs and other ODS propellants in FDA-regulated products. FDA states it is proposing this action because alternative products that do not use ODSs are now available and because these products are no longer being marketed in versions that contain ODSs. This action, if finalized, will remove the essential-use exemptions for sterile aerosol talc administered intrabronchally by thoracoscopy for human use and for metered-dose atropine sulfate aerosol human drugs administered by oral inhalation. This rule is not expected to be controversial as the alternatives have been in place for the impacted device for some time. Comments are due December 27, 2016.

FDA Provides Industry Clarifications On Disclosure Statements In Draft Guidance On Four Rules Implementing FSMA : On October 31, 2016, FDA issued a notification of the availability of Describing a Hazard That Needs Control in Documents Accompanying the Food, as Required by Four Rules Implementing the FDA Food Safety Modernization Act: Guidance for Industry. 81 Fed. Reg. 75349. The draft guidance is intended to provide industry clarification on the disclosure statements made by suppliers and manufacturers describing certain hazards that have not been controlled by them, as required by certain provisions in FDA's final rules implementing the Food Safety Modernization Act (FSMA). The notice lists these rules and how they detail hazards under the four rules and offers examples on what documents it considers as “documents of the trade.” Comments on the draft guidance are due May 1, 2017.

FDA Provides Questions And Answers Regarding Food Facility Registration Under FSMA In Draft Guidance: On November 8, 2016, FDA issued a notification of availability of Questions and Answers Regarding Food Facility Registration (Seventh Edition): Draft Guidance for Industry. 81 Fed. Reg. 78526. This draft guidance contains 15 sections of a multisection guidance intended to provide updated information relating to the food facility registration requirements in the Federal Food, Drug, and Cosmetic Act (FFDCA). The seventh edition is intended to address questions and provide additional information on the Amendments to Registration of Food Facilities finalized from July 2016. Comments are due on February 6, 2017.

NANOTECHNOLOGY

NIOSH Presentation On Engineering Controls For Nanotechnology Now Available: On September 27, 2016, the NIOSH Board of Scientific Counselors (BSC) met, and its discussion included engineering controls and nanomaterials. Kevin H. Dunn, Sc.D., CIH, a NIOSH Division of Applied Research and Technology (DART)

mechanical engineer and member of NIOSH's Nanotechnology Research Center provided an update to the BSC on NIOSH's evaluations, findings, recommendations, and guidance for reducing occupational exposures to nanomaterial through engineering controls. NIOSH recently posted [Dunn's presentation](#) online. According to the presentation, NIOSH has a good understanding of how exposures occur and how to control them. NIOSH needs to continue to conduct field studies to identify new processes and materials, however, the question of whether NIOSH should be doing any laboratory work on quantifying control effectiveness was raised. In addition, NIOSH needs to have a better understanding of how to communicate with its audience. Future plans include developing three additional Workplace Design Solutions on common nanotech tasks/processes, including reactor operations (harvesting and cleaning); powder collection/dumping (silobag dumping and powder packing); and large scale material handling.

ECHA Board Of Appeal Annuls Four Decisions Requesting Substance Identity Information On A Nano Structured Substance: In cases [A-008-2015](#), [A-009-2015](#), [A-010-2015](#), and [A-011-2015](#), the European Chemicals Agency (ECHA) Board of Appeal examined appeals against compliance check decisions made by ECHA requesting further substance identity information from four registrants of a "nano structured" substance. As reported on July 29, 2015, [blog item](#), ECHA adopted the contested decisions on December 17, 2014, following a compliance check under the dossier evaluation procedure of the submitted registration. In each contested decision, ECHA found that the registration did not comply with the requirements of Article 10(a)(ii), as well as Annex VI, Section 2 of the Registration, Evaluation, Authorization and Restriction of Chemicals Regulation (REACH). ECHA requested that appellants submit the following information: name, molecular and structural formula, or other identifier of the substance (Annex VI, 2.1 and 2.2); composition of the substance (Annex VI, 2.3); and description of the analytical methods used (Annex VI, 2.3.7).

ECHA announced in its [October 12, 2016, ECHA Weekly](#) that the Board of Appeal found that the contested decision "breached the principle of legal certainty as some of the terms used, specifically 'grades', 'forms' and 'nanoforms' not clearly defined and did not allow the Appellants to clearly ascertain what information they were required to provide in order to comply with the Agency decisions." The Board of Appeal annulled the contested decisions. The appellants raised other pleas (e.g., whether ECHA could legally require them to submit further information to allow for a more detailed identification of the nanoforms of the registered substance). The Board of Appeal concluded that since it is clear from the contested decisions what information the appellants are required to provide, it was not possible to decide on the legality of those requests.

ECHA Committee Adopts First Opinion Approving Nano Biocide: On October 13, 2016, ECHA [announced](#) that the Biocidal Products Committee adopted three opinions supporting the approval of active substances for use in biocidal products, including its first opinion on a nanomaterial. The Committee supports the use of pyrogenic, synthetic amorphous silicon dioxide, nano, surface treated for insecticides, acaricides, and products to control other arthropods (product-type 18). ECHA's October 13, 2016, [annex to a news alert](#) states that pyrogenic, synthetic amorphous silicon dioxide, nano, surface treated, is an existing active substance. The intended use is in insecticide products used by professional operators by spraying for the control of poultry red mite (*Dermanyssus gallinae*) to protect domestic animals (fowl) in places such as chicken-breeding farms or egg-producing farms. France is the evaluating competent authority of the active substance application. The adopted opinions will serve as a basis for final decision making by the European Commission and the European Union Member States. The approval of an active substance is granted for a defined number of years, not exceeding ten years. ECHA states that the opinions will be available [online](#) "in the near future."

EPA Proposes SNUR For Functionalized Carbon Nanotubes (Generic): On October 27, 2016, EPA proposed SNURs for three chemical substances that were the subject of PMNs, including functionalized carbon nanotubes (generic). 81 Fed. Reg. 74755. According to the notice, the PMN states that the substance will be used as a thin film electronic device applications. Based on structure-activity relationship analysis of test data on analogous carbon nanotubes and other respirable poorly soluble particulates, EPA identified potential lung effects and skin penetration and

toxicity induction from inhalation and dermal exposure to the PMN substance. Further, EPA predicts toxicity to aquatic organisms via releases of the PMN substance to surface water. EPA states that it does not expect significant occupational exposures due to the use of impervious gloves, and because the PMN is used in a liquid and is not sprayed except in a closed system. EPA does not expect environmental releases during the use identified in the PMN. Therefore, EPA has not determined that the proposed manufacturing, processing, and/or use of the substance may present an unreasonable risk to human health or the environment. EPA states that it has determined, however, that any use of the substance without the use of impervious gloves, where there is potential for dermal exposure; manufacturing the PMN substance for use other than as a thin film for electronic device applications; manufacturing, processing, or using the PMN substance in a form other than a liquid; use of the PMN substance involving an application method that generates a mist, vapor, or aerosol except in a closed system; or any release of the PMN substance into surface water or disposal other than by landfill or incineration may cause serious health effects or significant adverse environmental effects. Based on this information, according to EPA, the PMN substance meets the concern criteria at 40 C.F.R. Section 721.170(b)(3)(ii) and (b)(4)(ii). EPA promulgated final SNURs on May 16, 2016, for these three chemical substances. EPA received notices of intent to submit adverse comments, however, and withdrew the direct final SNURs on July 14, 2016. EPA notes that the applicable review periods for the PMNs submitted for the three chemical substances all ended prior to June 22, 2016, the date on which President Obama signed into law the Frank R. Lautenberg Chemical Safety for the 21st Century Act, which amends TSCA. Comments on the proposed PMNs are due November 28, 2016.

NIOSH Announces Sampling Strategy To Help Identify Potential Nanomaterial Exposure In An Occupational Setting: On November 1, 2016, NIOSH published a blog item entitled [Never fear! NEAT 2.0 is here! -- How to perform nanomaterial exposure assessment in the workplace](#). NIOSH notes that in 2009, it developed and was the first to recommend using the nanoparticle emission assessment technique (NEAT). According to NIOSH, NEAT made use of a condensation particle counter to identify tasks that result or can result in the emission of nanoparticles into the surrounding air. Task-based filter samples were then used to confirm the presence of nanoparticles using both laboratory elemental analysis and electron microscopy. NIOSH states that this initial approach did not effectively address the potential for background contamination from incidental nano-sized particles or exposure over a full workday. It was also heavily dependent on the use of direct reading instruments (DRI), which are nonspecific air monitors and subject to interferences such as background incidental particles. Based on the need to surmount these limitations, and a desire to learn more about potential occupational exposures, NIOSH updated NEAT. The September 2016 issue of the *Journal of Occupational and Environmental Hygiene* includes an article on the update, [“Refinement of the Nanoparticle Emission Assessment Technique into the Nanomaterial Exposure Assessment Technique \(NEAT 2.0\).”](#) NIOSH states that NEAT 2.0 “is a more robust sampling strategy that places a stronger emphasis on full workday exposures, incorporates background monitoring, and emphasizes the importance of integrated filter sampling in the worker breathing zone over the use of DRIs.”

According to NIOSH, in performing the above steps, a comprehensive exposure assessment can be performed and assist with the identification of potential nanomaterial exposure in an occupational setting. NIOSH states that NEAT “will guide facilities in determining exposure potential for workers who are handling or using engineered nanomaterials. By determining exposure potential, the facility can then work to control exposure making use of mitigation strategies and the hierarchy of controls.”

NNCO Announces 2016 NNI Strategic Plan: On November 1, 2016, the National Nanotechnology Coordination Office (NNCO) announced the release of the 2016 [National Nanotechnology Initiative Strategic Plan](#). The 21st Century Nanotechnology Research and Development Act of 2003 requires National Nanotechnology Initiative (NNI) agencies to develop an updated Strategic Plan every three years. The 2016 Strategic Plan represents a consensus among the NNI agencies on the high-level goals and priorities of the NNI and on specific objectives to be pursued at least the next three years. The Strategic Plan provides the framework under which individual agencies conduct their own mission-specific nanotechnology programs, coordinate these activities with those of other NNI agencies, and

collaborate. The Strategic Plan states that the focus of the NNI has broadened from investments in foundational research in nanomaterials and nanotechnology-enabled devices to include activities directed at how they can be incorporated into nanotechnology-enabled systems. The 2016 Strategic Plan reflects this change and addresses how the NNI agencies collaborate with each other and the broader nanotechnology community “to expand the ecosystem that supports fundamental discovery, fosters innovation, and promotes the transfer of nanotechnology discoveries from lab to market. For more information on the Plan, see our blog item [NNCO Announces 2016 NNI Strategic Plan](#).”

OECD Publishes A Number Of New Reports In Series On The Safety Of Manufactured Nanomaterials, Including Nanosilver Case Study And Gold Nanoparticle Occupational Exposure Assessment In Pilot Scale Facility: In November 2016, OECD published the following new reports in its Series on the Safety of Manufactured Nanomaterials:

Toxicokinetics of Manufactured Nanomaterials: Report from the OECD Expert Meeting

- [Exposure Assessment of Nano-Silver \(AgNP\): Case Study](#)
- [Future Challenges Related to the Safety of Manufactured Nanomaterials: Report from the Special Session](#)
- [Grouping and Read-Across for the Hazard Assessment of Manufactured Nanomaterials: Report from the Expert Meeting](#)
- [Grouping and Read-Across for the Hazard Assessment of Manufactured Nanomaterials: Participants List to Expert Meeting](#)
- [Gold Nanoparticle Occupational Exposure Assessment in a Pilot Scale Facility](#)
- [Developments on the Safety of Manufactured Nanomaterials: Aide Table from OECD Delegations \(Nov 2015-Oct. 2016\)](#)
- [Strategy for Using Metal Impurities as Carbon Nanotube Markers](#)

Although the [OECD website](#) lists an additional report, *Titanium Dioxide: Summary of the Dossier*, its link does not work.

Germany Publishes Action Plan Nanotechnology 2020: The Federal Ministry of Education and Research (BMBF) recently published an English version of [Action Plan Nanotechnology 2020](#). Based on the success of the Action Plan Nanotechnology over the previous ten years, the federal government will continue the Action Plan Nanotechnology for the next five years. Action Plan Nanotechnology 2020 is geared towards the priorities of the federal government's new “High-Tech Strategy” (HTS), which has as its objective the solution of societal challenges by promoting research. According to Action Plan Nanotechnology 2020, the results of a number of research projects “have shown that nanomaterials are not per se linked with a risk for people and the environment due to their nanoscale properties.” Instead, this is influenced more by structure, chemical composition, and other factors, and is thus dependent on the respective material and its application. Action Plan Nanotechnology 2020 states that the results from risk research will be introduced into regulations in all relevant areas, such as occupational, consumer and environmental law. Germany will continue the work already begun on analytical verifiability of existing legal regulations concerning nanomaterials and standardized instrumental and analytical methods for exposure assessment and routine control are still lacking. According to Action Plan Nanotechnology 2020, Germany is committed to continuing with the development and adaptation of OECD test guidelines to create the prerequisite for comparability of international research results.

ISO Publishes Measurement Technique Matrix For Characterization Of Nano-Objects: The International Organization for Standardization (ISO) recently published ISO/TR 18196:2016 [Nanotechnologies -- Measurement technique matrix for the characterization of nano-objects](#). The document provides a matrix intended to guide users to commercially available techniques relevant to the measurements of common physiochemical parameters for nano-objects. Some techniques are also applicable to nanostructured materials. As scientific advances are made and additional commercial measurement techniques become available, ISO will periodically review and update the document to maintain its relevance. ISO notes that many of the listed techniques have not been validated through round-robin

testing or any other means for the measurement of nano-objects. ISO states that the document “is intended as a starting point and resource to help identify potentially useful and relevant techniques; it is not an exhaustive or primary source. ISO recommends that once a technique has been identified, the reader refer to relevant international standards and conduct a literature search for similar or comparable applications. Other sources of information include instrument manufacturers’ applications notes and technical literature.

BIOBASED/RENEWABLE PRODUCTS

MISCELLANEOUS

EPA Releases Environmental Justice Strategic Plan For 2016-2020: On October 27, 2016, EPA published the “EJ 2020 Action Agenda: The U.S. EPA’s Environmental Justice Strategic Plan for 2016-2020.” The EJ 2020 Action Agenda is EPA’s strategic plan for advancing environmental justice for the years 2016-2020, and it will build on the foundation established by EPA’s previous plan, Plan EJ 2014, as well as decades of environmental justice practice by EPA, communities, and EPA’s partners. EJ 2020 has three overarching goals:

1. To deepen environmental justice practice in EPA programs that improve the health and environment of overburdened communities;
2. To work with federal, state, tribal, community and industry partners to expand EPA’s impact across the country; and
3. To measure the progress EPA is making on its most significant environmental justice challenges.

The EJ 2020 Action Agenda consists of eight priority areas and four significant national environmental justice challenges and EPA lays out its objectives, the plan for achieving them, and how it will measure success. The priority areas are rulemaking; permitting; compliance and enforcement; science; states and local governments; federal agencies; community-based work; and tribes and indigenous peoples. The national environmental justice challenges are lead disparities; drinking water; air quality; and hazardous waste sites. EPA states that it expects to review and, as appropriate revise, the actions it undertakes to meet its goals. The EJ 2020 Action Agenda notes that every national program and region has assumed the responsibility of co-leading at least one of these priority areas.

California DPR Proposes New Regulation Giving Further Protections To Children From Pesticide Exposure: The California Department of Pesticide Regulation (DPR) recently proposed a regulation that it states is intended to “(1) provide minimum statewide standards for all agricultural pesticide applications near public K-12 schools and child day care facilities; (2) provide an extra margin of safety in case of unintended drift or when other problems with applications occur (e.g., equipment failure causes an unintended release of pesticide, or an abrupt change in weather conditions); (3) increase communication between growers and schools/child day care facilities; and (4) provide information to assist schools and child day care facilities in preparing for and responding to pesticide emergencies.”

Specifically, the regulation is proposed to prohibit many pesticide applications for the production of an “agricultural commodity” within a quarter mile of schoolsites from Monday through Friday between 6:00 a.m. and 6:00 p.m. “Schoolsites” are defined by Education Code Section 17609(f) as “any facility used as a child day care facility defined in Section 1596.750 of the Health and Safety Code, or for kindergarten, elementary or secondary school purposes.” The regulation requires California growers and pest control contractors to notify public K-12 schools at child day-care facilities and county agricultural commissioners (CAC) when certain pesticide applications are made within a quarter mile of these schools and facilities.

Comments on the proposed regulation are due by November 17, 2016. DPR states that a final regulation is expected to become effective in September 2017. Many have concerns with the proposed regulation, which DPR has been

discussing publicly for some time. These concerns include what many believe are significant economic impacts to growers and others that they believe may not have been adequately considered and are not necessary for appropriate use of registered pesticides. Registrants and others should review the proposal carefully

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Source URL: <http://www.natlawreview.com/article/human-carcinogens-antimicrobial-pesticides-cross-state-air-pollution-federal-law>

Fisheries secretary orders internal review after audit finds questionable spending of oil spill money

By MELINDA DESLÀTE, Associated Press NOV 14, 2016 - 7:18 AM (2)



Patrick Semansky

In this Thursday Sept. 16, 2010 photo, dead oysters float in a fish trap on the Louisiana coast. Gulf oil spill recovery money intended for fish caught off Louisiana were safe for consumers instead paid for untested boats and now-missing fishing equipment, state auditors said, claiming it mismanaged it couldn't even declare if the catch was fit to eat, ~~W~~ (AP Photo/Patrick Semansky File) ORG XMIFNY108

BATON ROUGE (AP) — Louisiana's wildlife and fisheries secretary says he's ordered a "complete internal review" of his agency's operations.

The move comes after auditors found questionable spending, missing state-owned property and shoddy management of finances in the past leadership of the department.

Charlie Melancon, who took over the Department of Wildlife and Fisheries in January, described the changes in his response to an audit released Monday. Draft findings had been previously reported by The Associated Press.

The review by Legislative Auditor Daryl Purpera's office details widespread financial issues across the department under the former secretary. For example, auditors say Gulf oil spill recovery money intended for fish testing instead paid for unnecessary iPads, cameras, boats and now-missing fishing equipment.

County backs Witte Museum river habitat project

By John W. Gonzalez November 15, 2016

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Photo: John W. Gonzalez, Staff / San Antonio Express-News

IMAGE 1 OF 4

ACEQUIA MADRE â Three centuries ago, this area by the San Antonio River, at the north end of the Witte Museum (background) property, was the site of a dam and acequia constructed with indigenous labor to ... more

Bexar County has agreed to pitch in \$2.25 million for the Witte Museum's \$8.2 million project to create riparian habitat along the upper reaches of the San Antonio River, where an 18th-century diversion dam and acequia will be brought back to life behind the museum.

The county set aside \$1.25 million last year for work on the 18th-century acequia — the Alamo’s original water source. Now \$1 million is being added for the habitat project.

County planners said the effort would “provide a unique and culturally significant feature that allows residents and visitors to the area to rediscover the historic beginnings of San Antonio.”

The Witte has a \$1.2 million commitment for trails from the San Antonio River Authority but has \$4.7 million more to raise for the river habitat project. Overall, the museum has raised \$88 million of its goal for a \$100 million transformation, said Witte President and CEO Marise McDermott.

“We’re really coming into the final stages of the new Witte,” with changes underway to the exterior and interior, addition of the Mays Family Center and other new features, she said.

For the riparian, or riverside, habitat, “we’ve completely taken all that habitat that is not riparian and that’s not river appropriate out — the landscaping and drainage, everything out — and we’re replacing it with appropriate, natural history-model habitat that all San Antonio, all Bexar County, should adopt,” McDermott said.

“We want to be great stewards, overt stewards, along Broadway in an urban corridor to show what everybody can do,” she said.

With plans that tie into preparations for the city’s tricentennial in 2018, the habitat will be developed around the remnants of the acequia diversion dam. A consultant’s designs “create an interpretive homage to the dam and to the Acequia Madre, which was called the Alamo dam because it fed the Alamo,” McDermott said.

The museum is using the same landscape designer who did Mission Reach improvements, she added. The challenge is to “create a dam that won’t be, in fact, a dam,” McDermott said.

Acequia remnants indicate the structure crossed the river from what is now Brackenridge Park and passed under what is now the Mays Family Center. Ground markings showing that route are planned on the Broadway side of the museum.

“This is a huge part of the tricentennial story,”
McDermott said.

To recreate parts of the dam, built by Spaniards and natives in 1719, “the masons went to the quarry, quarried the rocks themselves, brought them back and recreated this dam,” in miniature version, McDermott said.

Thousands of visitors including children have had a peek at the ongoing work on the diversion dam, McDermott said.

“What we’re building now is the Acequia Madre itself in front of the Witte, the signage. There will be a path so people will understand what the Acequia Madre is, its origins and how powerful it was,” she said.

In another tricentennial-related action, commissioners allotted \$141,500 to Alamo City Opera to complete a two-hour, three-act opera for the tricentennial about the historic role of San Pedro Creek.

An initial version of Act I, costing \$160,800, debuted at the September groundbreaking for the \$175-million creek improvements project, which is funded largely by Bexar County. The opera will debut on the city’s 300th birthday, May 5, 2018.

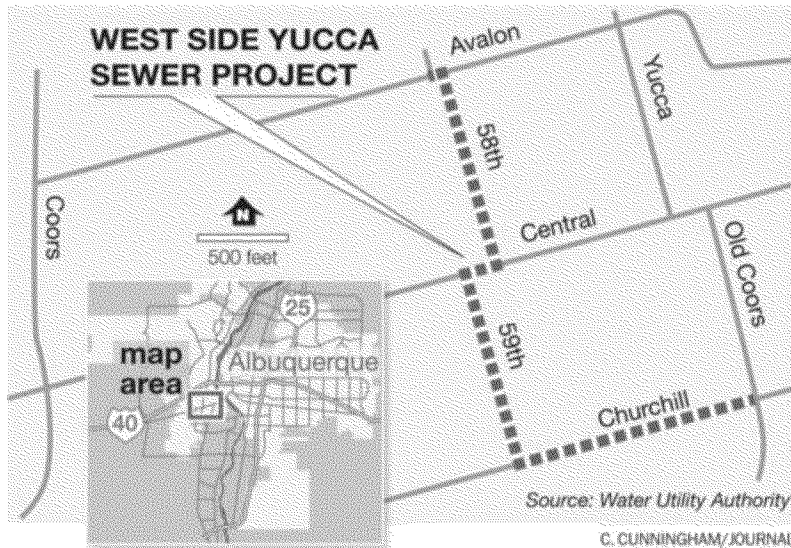
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Sewer project hopes to reduce odor issue

By Ollie Reed Jr. / Journal Staff Writer

Wednesday, November 16th, 2016 at 12:05am

ALBUQUERQUE, N.M. — Work began this week on a solution to a situation that has been a pain in the nose for some West Side residents and business owners for four decades. And it's expected to cause its fair share of disruptions to homes and businesses before it's done next September.



The \$6.5 million Yucca Sewer Project is intended to reduce sewer odors and improve sewer flow in an area bordered on the north by Avalon NW, on the south by Churchill SW, on the west by 58th and 59th streets and on the east by Old Coors Drive. The project gets its name from a street in the project area.

Odor problems have been caused by an old and poorly aligned sewer main that allows sewer gases to escape to the surface and circulate in the community.

"We've been fighting the sewer smell since before I can remember," said Van Barber, who started doing business – motels, an RV park – on West Central in 1971. "We started the (now-defunct) West Central Merchants Association because of the smell."

Larry Nelson, who owns Nelson's Meats and other property at 929 Old Coors SW, said four to five businesses had moved out of the area over the years because of the smell.

"They tried to fix it 20 years ago and it just didn't work," he said.

Barber and Nelson were among those attending a Tuesday news conference announcing the launch of the sewer project, which will include the realignment of a major sewer collector line and the replacement of sewer lines. It will also include the installation of technology – five special vortex manholes designed to keep sewer gases underground – that is expected to accomplish what previous efforts to control odors have failed to do.

City councilors Ken Sanchez and Klarissa Peña and Bernalillo County Commissioner Art De La Cruz also attended the news conference at Glass Crafters, 209 55th St. SW, a business in the heart of the project area. Sanchez and De La Cruz also are members of the governing board of the Albuquerque Bernalillo County Water Utility Authority which is funding the project out of its capital fund.

While trumpeting the start of the sewer project, Sanchez did not minimize the difficulties involved with doing the sewer work while the city's Albuquerque Rapid Transit (ART) project is ripping up Central Avenue in the same

area.

“We have two major projects going on at the same time, and it’s going to be a challenge,” Sanchez said. “We are going to work to do the best we can to keep traffic moving on the West Side. I’m going to ask the people in the West Side community to have patience.”

Anticipated problems range from disruption of mail delivery and trash pickup in the project area to interference with school bus routes and obstruction of access to residences. Officials said that in each case, the project contractor, AUI, will work with the appropriate authorities and residents to circumvent the difficulty.

For example, a fenced and guarded lot at 59th and Avalon will be available to area residents who wish to park their cars there. AUI will provide transportation between the lot and private homes 24 hours a day, seven days a week.

David Morris, water authority public affairs manager, said it may be weeks, even months, before the parking/shuttle system will be needed.

“In any event, we will inform affected residents ahead of time to remind them that the service will be available for their use,” Morris said.

Residents and businesses will also be notified ahead of time of water shutoffs.

Yucca Sewer Project

Phase 1: Now-February 2017 – Churchill Road from Old Coors to 59th Street.

Phase 2: January-April 2017 – 59th Street from Churchill to Central Avenue.

Phase 3: April-May 2017 – Jack and bore work beneath Central.

Phase 4: May-September 2017 – 58th Street to Avalon Road.

For more information, contact Patti Watson, project community liaison, at 505-245-3134, office; 505-269-9691, cell; or at pattiw@cwastrategic.com.

Project information may also be found at www.abcwua.org.

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